

PATENT

Attorney Docket No: AND-1001-DIV2

REMARKS

Claims 15 to 20 are presently pending in the application. By the present communication, claim 15 is amended to correct a typographical error. Claims 19 and 20 are also amended.

Applicant thanks the Examiner for entering the terminal disclaimer and noting need for correction of typographic error in claim 15 which has been corrected in this response.

The Examiner has found that recitation in claim 20 of "antibodies or fragments thereof . . ." is not clear thus has issued a rejection under 35 U.S.C 112 second paragraph. Although Applicant disagrees with this assessment, as the claim language says "ligands for each . . .", it would be clear to one of skill in the art that the intention was functional fragments that would necessarily bind in their respective function. Nonetheless, Applicant has amended claim 20 to recite "antibodies or fragments thereof to that bind to ligands for each . . ." With this amendment, the objection to claim 20 should now be moot and Applicant request that the rejection be withdrawn.

The Examiner has further found yet another alleged basis to reject claims 15 to 20 under 35 U.S.C. 102 as anticipated by US patent 5,595,881. The Examiner previously withdrew this reference based on Applicant's prior amendment but now has reversed his position. Applicant respectfully disagrees emphatically with the Examiner on this issue and requests that the rejection be withdrawn.

In the first instance, the Examiner reads claim 19 as not requiring the use of artificial APC but rather only being "capable" of using aAPC. Applicant notes that rejections under 102 must be supported by specific disclosure in the reference to each and every element of the claimed invention. Applicant's column is 1) multicompartiment , 2) has a solid support capable of binding an aAPC. Neither of these specifically recited elements are at all disclosed in the '881 patent, particularly in reference to the referenced

PATENT

Attorney Docket No: AND-1001-DIV2

column itself. Further, the '881 patent primarily describes a method and as for disclosure of a column, it is a single chamber batchwise chromatography column packed with an agent that chelates metal ions with the MHC complex. On these differences alone, the '881 cannot anticipate under 35 U.S.C. 102 regarding the claimed column device. It is not required, given the lack of teaching of the elements 1) and 2) above, for the device to actually possess the aAPC as long as the support has the heretofore undisclosed ability to bind to aAPC. We note that it is not only the MHC complex that the aAPC can bind to a solid support but also as claimed in dependent claims, an irrelevant molecule clearly taught to bind aAPC to a solid support, the irrelevant molecule being separate from the MHC complex. Thus, Applicant should not be held to claim language (binding only aAPC) that restricts the fully measure of his invention.

Moreover, the Examiner's argument is somewhat mixing the attributes in the '881 patent of the taught method with those of a composition of matter, the column. This is what originally brought Applicant's representative to surmise the mixing of issues by the Examiner earlier. Though that earlier issue is moot, Applicant wants to clarify that the present claims to a column device should not be viewed from the method perspective of what the device is used for. Although the application to bind antigen specific T cells is the same, the methodology is vastly different with potentially metabolically different outcomes, as is the also the case for the device used to accomplish the binding.

In sincere hopes of bringing this case to finality, Applicant has, despite the above arguments for the lack of a need to amend claim 19, amended claim 19 to recite in part C) that at least one of the column compartments possesses an MHC antigen:functional molecule complex and an artificial antigen presenting cell.

PATENT

Attorney Docket No: AND-1001-DIV2

CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for immediate allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

Respectfully submitted,



Date: September 25, 2009

Douglas C Murdock
Registration No. 37549
Telephone (760) 815-7554
Facsimile: (858) 350-9691